IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24527 of 2004

Between:

S.Gangadhri S/o Gangappa
Adapale Street, Kadiri Anantapur District.

..... PETITIONER

AND

The Depot Manager, AP.SRTC., Kadiri Depot,
Kadiri, Anantapur District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in imposing major penalty vide proceedings No.01/2(2)/97-KDR. dt. 4/07/1997 and dt. 28/10/1997 without conducting enquiry as illegal, arbitrary, unjustified, unsustainable, contrary to law and in violation of principle of natural justice and set aside the same and consequently direct the respondent to add two annual incrments to the pay of the petitioner.

Counsel for the Petitioner: MR.A.RAMA RAO

Counsel for the Respondent: MR.P.VINAYAKA SWAMY (SC FOR APSRTC)

The Court at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 24527 of 2004

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ORDER:

The petitioner is working as a driver in the respondent-Corporation. He was issued a charge memo on 17-05-1997 for having caused an accident to the vehicle bearing Regn.No.AP10Z 1936 driven by him and after receiving the explanation of the petitioner, the final orders were passed on 28-10-1997 imposing the penalty of withholding of one incremental stage for a period of two years with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment for a period of two years with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order is illegal and it is liable to be set aside.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 7 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside, on account of long lapse of time in filing the writ petition and in view of the judgment of the Supreme Court in **Kulwant Singh Gill** (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment for two years without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of one annual increment for two years without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations. In the circumstances, there shall be no order as to costs.

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Kvr December 29, 2004

To

1. The Depot Manager, AP.SRTC., Kadiri Depot, Kadiri, Anantapur District.

2. 2 C.D copies.